

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, )  
vs. ) CASE NO. DNCW508CR48-6  
Financial Litigation Unit)  
BRIAN KYLE ABERNATHY, )  
Defendant, )  
and )  
84 LUMBER COMPANY, )  
Garnishee. )

**ORDER OF CONTINUING GARNISHMENT**

**THIS MATTER** is before the Court on the answer of 84 Lumber Company, as Garnishee.

On January 25, 2010, the Honorable Richard L. Voorhees sentenced Defendant to ten months incarceration on his conviction for Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. Judgment in the criminal case was filed on February 1, 2010 (Docket No. 104). As part of that Judgment, Defendant was ordered to pay an assessment of \$100 and restitution of \$20,652.79 to the victims of the crime. *Id.*

On July 25, 2013, the Court entered a Writ of Continuing Garnishment ("Writ") (Docket No. 190), to Garnishee, 84 Lumber Company, ("Garnishee"). The United States is entitled to a wage garnishment of up to twenty-five percent of net income and has satisfied the prerequisites set forth in 15 U.S.C. §1673. Defendant was served with the Writ on August 26, 2013, and Garnishee was served on July 29, 2013. Garnishee filed an Answer on August 12, 2013 (Docket No. 195), stating that at the time of the service of the Writ, Garnishee had in their custody, control or possession property or funds owned by Defendant, including non-exempt, disposable earnings.

IT IS THEREFORE ORDERED that an Order of Continuing Garnishment is hereby ENTERED in the amount of \$17,228.42 computed through July 23, 2013. Garnishee will pay the United States up to twenty-five percent of Defendant's net earnings which remain after all deductions required by law have been withheld and one hundred percent of all 1099 payments, and Garnishee will continue said payments until the debt to the Plaintiff is paid in full or until Garnishee no longer has custody, possession or control of any property belonging to Defendant or until further order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to:

Clerk of the United States District Court  
401 West Trade Street  
Charlotte, North Carolina 28202

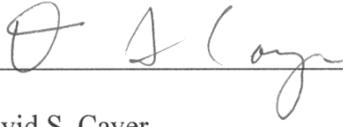
In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW508CR48-6.

IT IS FURTHER ORDERED that Garnishee will advise this Court if Defendant's employment is terminated at any time by Garnishee or Defendant.

Plaintiff will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment Defendant would normally receive may be offset and applied to this debt.

**SO ORDERED.**

Signed: June 9, 2015

  
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David S. Cayer  
United States Magistrate Judge  
